

EXHIBIT 44

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

In re: Wells Fargo Mortgage) Case No.
Discrimination Litigation) 3:22-cv-00990-JD
_____)

Videotaped 30(b)(6) Deposition of

WELLS FARGO

by its designee ERIC BROOKS

(Taken by Plaintiffs)

Charlotte, North Carolina

Tuesday, November 14, 2023

Reported by: Christine A. Taylor, RPR

Job No. CA 6150836

Page 1

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1 agree?

2 A. Yes.

3 Q. And can you tell me why there is?

4 A. Yes.

5 Q. Go ahead.

6 A. So we -- the model has limitations.

7 When we apply the model, we -- say conforming
8 loans, for example. We may have 12 to 15 inputs
9 that we would have for that model, and so things
10 like title issues or documentation issues or
11 pieces that are not part of the model can factor
12 in. What we use is a -- when you're comparing
13 those once you've applied those factors, if you
14 have greater than 90 percent, we're comfortable
15 that that's parity. So consider consistent
16 versus -- versus the government regulators using
17 numbers like 80 percent.

18 So we use a higher percentage trying
19 to -- trying to get comfortable, are they close
20 enough to where we feel like we have parity.
21 If -- so that's back to your model question is
22 there's -- there's limitation to the model.

23 Q. All right. Let me try to unpack some
24 of that, make sure that our record is clear.

25 You mentioned this 90 percent

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1 figure --

2 MR. ARLEDGE: Right now? Let's take a
3 break.

4 THE VIDEOGRAPHER: The time is
5 approximately 11:09:19 a.m. We are now off
6 the record.

7 (Recess taken from 11:09 a.m. until 11:26 a.m.)

8 THE VIDEOGRAPHER: The time is
9 approximately 11:26:16 a.m. We are now on
10 the record.

11 BY MR. ARLEDGE:

12 Q. Okay. Sorry about the long break, but
13 we've had some technical difficulties.

14 We were talking about this 90 percent
15 disparity figure just before we went off the
16 record. So I want to ask you about that so that
17 we all understand what we're talking about.

18 First of all, this is what Wells Fargo
19 refers to as practical significance; is that
20 right?

21 A. Yes.

22 Q. So -- and what Wells Fargo means by
23 that is if Wells Fargo's calculations show that
24 there's a 10 percent disparity or less between,
25 say, white applicants and black applicants, then

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1 Wells Fargo's perspective is that there is no
2 practically significant difference between the two
3 groups; yes?

4 A. Yes. Approval rates, yes.

5 Q. Okay. Now, Wells Fargo doesn't mean
6 by that it would be okay to discriminate against
7 10 percent of its black applicants; right?

8 A. Yes.

9 Q. In fact, if what we found out was that
10 Wells Fargo was, in fact, discriminating against
11 10 percent of black applicants, we can agree that
12 would be the problem; yes?

13 A. Yes.

14 Q. What Wells Fargo is saying is that if
15 there's a 10 percent disparity or less, Wells
16 Fargo doesn't think that it is discriminating
17 against its black applicants; true?

18 MS. BRINSON: Objection. Foundation.

19 THE WITNESS: That's an incomplete
20 statement.

21 BY MR. ARLEDGE:

22 Q. In what way?

23 A. So the ideal for the 10 percent is
24 what we call an adverse impact ratio. And so as
25 you've stated, we apply those credit factors, do

Page 48

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1 the calculation, and the 90 percent is not like a
2 perfect figure that if you're at 91 versus 89,
3 that you are or are not discriminating. It's a
4 comparison of approval rates once you've similarly
5 situated, and what it does is it tells us if we're
6 above 90, we're comfortable that we have parity.
7 If we're below 90, we want to research to see if
8 there's any signs of disparate impact that would
9 not be based on the factors that we've talked
10 about.

11 Q. If there's a 10 percent difference
12 between the way white applicants and black
13 applicants are treated at Wells Fargo, Wells Fargo
14 is comfortable that it has parity; is that right?

15 MS. BRINSON: Objection.

16 Mischaracterizes testimony.

17 THE WITNESS: So 10 percent, yes. As
18 far as -- as far as modeling for those
19 statistical factors, yes.

20 BY MR. ARLEDGE:

21 Q. Why --

22 A. Those credit factors.

23 Q. Why is Wells Fargo comfortable that --

24 A. It's not --

25 Q. -- it's treating minority applicants

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1 fairly if under its own calculations there's a
2 10 percent difference between the way white
3 applicants and black applicants are treated?

4 A. I should probably use the word
5 confident versus comfortable. But when we're
6 talking about the numbers, the model has
7 limitations as far as what you can put in the
8 limitations as we discussed.

9 And so we're modeling for practical
10 significance. And so if it's, you know, as I
11 mentioned, standard industry practice as far as
12 the -- where the regulators may use 80 percent, we
13 use even a higher threshold of 90 percent where
14 we're looking and saying here's what we can model,
15 but the modeling doesn't take into effect some of
16 things that we talked about, like title issues and
17 so there's pieces that we can't match. And so
18 that's where we want to dive in and research to
19 see if we see any -- any potential disparate
20 treatment.

21 Q. You say there's pieces we can't match.
22 What does that mean?

23 A. Well, like title issues or
24 documentation issues, that's where the limitation
25 is in the models is that we don't have a field